IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

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WRIT PETITION NO : 1149 of 1995

Between:

1. Madupoju Laxminarsaiah, S/o.Rajeeru , age 39 years,
2. Erram Rajamouli S/o.Rayabosu, aged30 years,
3. Akula Rajesham S/o.Laxmaiah,age 37years,
4. Penukonda Rajam, age 40 years,
5. Chava Malleswar Rao S/o.Kotaiah, age 45 years,
6. Nadipalli Venkatramarao,age 42 years,
7. Nadipalli Pavan Kumari, age 37 years,
8. Ragam Jamaiah, age 42 years,
9. Vanam Lingaiah S/o.Rajamallu, age 42 years,
10. Chgiri Narsiah S/o.Ramaiah, age 30 years,
11. Singaveni Komuraiah S/o.Komraiah, age 41 years,
12. Gurrala Chandramouli,age 45 years,
13. Erroju Narsaiah S/o.Veeraiah, age 27 years,

All are residents of Venkatraopalli village, Kamanpur Mandal,

Karimnagar District.

..... PETITIONERS

AND

1 State of A.P., rep by Chief Secretary,
Secretariat, Hyderabad.
2 District Collector, Karimnagar.
3 Land Acquisition Officer and Special Deputy Collector, L.A.

Unit, Singareni Collieries Co., Ltd., Godavarikhani, Karimnagar

District.
4 Chairman and Managing Director,
Singareni Collieries Co., Ltd., Red Hills, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not notifying remaining portions of the houses of the petitioners situated at Venkatraopalli village in A.P. Gazettee No.11 dated 30.5.1994 is highly arbitrary, bad and illegal and consequently direct the respondents to acquire and pay compensation to the remaining portions of the houses of the petitioners situated in the Venkatraopalli (V), Kamanpur (M), Karimnagar District.

Counsel for the Petitioners: MR.P.PRABHAKAR REDDY

Counsel for the Respondent Nos.1 to 3: G.P. for Revenue.

Counsel for the Respondent No.4: MR.K.SRINIVASA MURTHY

The Court made the following :

ORDER:

Aggrieved by the action of the respondents in acquiring only some portions of the petitioners' houses as per the Gazette Notification dated 30.05.1994, as illegal and arbitrary, the petitioners filed the present writ petition praying for a direction to the respondents to acquire the balance portion of the houses of the petitioners, and pay them proper compensation.

The petitioners are residents of Venkatraopalli village. A Notification under Section 4(1) of Land Acquisition Act, 1894 was issued on 16.04.1991 for acquisition of patta lands, houses and structures, drinking water wells and trees situated therein in respect of the said village for the purpose of coal mining operations at Open Cast Project III, Godavarikhani, for Singareni Collieries Company Limited. Enquiry under Section 5-A of the Act was conducted and declaration under Section 6 of the Act was published in A.P. Gazette No.29 dated 10.07.1992. As the addresses of the petitioners did not find place in Section 4(1) Notification and under Section 6 declaration, on the request made by them, a draft declaration was published on 30.05.1994 including the addresses of the petitioners. It is the case of the petitioners that in the amended draft notification, only parts of their houses have been notified for acquisition. In pursuance of the said notification some portions of the houses as notified in the Notification were acquired and compensation paid. Aggrieved by the action of the respondents in not acquiring the balance portions of the houses and paying them compensation, the petitioners filed the present writ petition.

The third respondent filed counter affidavit stating that the petitioners have not filed any petition for inclusion of houses, wells etc. for acquisition in response to the Notification issued under Section 4(1) and therefore, the contention of the petitioners that during Section 5-A enquiry, they have represented before the Land Acquisition Officer, that their houses and wells etc. are not included in the Notification under Section 4(1) of the Land Acquisition Act is not borne out from record. As there was boundary dispute in respect of Survey No.381 of Venkatraopalli, the same was demarcated by the Assistant Director, Survey and Land Records, Karimnagar and amendment proposals to both Draft Notification and Draft Declaration were published in Andhra Pradesh Gazette No.11, dated 30.05.1994 and after the said demarcation, certain structures belonging to the petitioners were found affected partly, as such they were published as amendment to the Draft Notification and Draft Declaration to the extent of affected portion and as the rest of the portion of such structures were found falling in the land belonging to Singareni Collieries Company Limited, no notification in respect thereof was issued. Therefore, the compensation amount to the extent of affected portion of structures was paid to the petitioners as per the Award No.4/94 and Award proceedings No.B1/220/88 dt.12.07.1994. It is further stated that the entire village Venkatraopalli was acquired and compensation amount was paid, and the land (Ac.79.15 cents) along with structures situated

thereon was already handed over to the Singareni Collieries Company Limited for the purpose of coal mining operations. As such the entire villagers of Venkatraopalli, including the petitioners, have to vacate their houses and in the circumstances there is no scope for anybody to reside in the houses existing on the acquired land, thus, the question of residing of the petitioners in their houses at Venkatraopalli does not arise, and that they have no right to claim compensation for the portion of houses illegally constructed in the land belonging to Singareni Collieries Company Limited.

The fourth respondent also filed counter-affidavit, admitting the acquisition of land to an extent of Ac.79.15 guntas and payment of compensation. It is further stated that during enquiry under Section 5-A, the Land Acquisition Officer received number of applications for inclusion of structures, which were found missing in the draft notification and draft declaration. A Committee was constituted and the said Committee at its meeting held on 12.10.1993 examined the issue and recommended for inclusion of 26 structures, 7 houses for roof change and 33 wells after duly verifying with records of voters list, census list and Gram Panchayat records of Venkatraopalli village. Accordingly, the Land Acquisition Officer sent the draft notification and draft declaration amendment proposals to the District Collector, Karimnagar. Meanwhile the pattadars in Survey No.381 of Venkatraopalli village represented to the District Collector, Karimnagar to re-survey the boundary line of the land already acquired by the fourth respondent-Company and after demarcation of the boundary line, amended draft notification and draft declaration were issued. It is further stated that the petitioners are not eligible for compensation for the remaining portion of structures, bathrooms, wells and trees as they are lying in the land belonging to the fourth respondent-Company. The possession of the lands has been handed over to the fourth respondent-Company on 13.07.1974. Hence, the contention of the petitioners that they are in possession of the land is untenable. Further, if the petitioners are having any grievance, they could have sought reference to the competent civil Court under Section 18 of the Land Acquisition Act.

The contention of the petitioners that only some portion of their houses was acquired by the respondents, is admitted to by the respondents, but it is contended by them that as some portion of the houses was falling in the land belonging to Singareni Collieries Limited, they have not acquired the same and not paid the compensation.

Be that as it may, upon hearing the counsel appearing on behalf of the respective

parties for some time, it so transpired that the petitioners have already filed a reference under Section 18 of the Land Acquisition Act, 1894 seeking enhancement of compensation and that the same is pending before the competent civil Court, and as such, the learned Counsel for the petitioners prayed that the petitioners be allowed to raise the issue raised in this writ petition in the reference. The learned Counsel for Singareni Collieries expressed no objection for raising such a plea by the petitioners in the reference.

In view of the admitted stand taken, the writ petition is disposed of with the following directions:

The petitioners are at liberty to raise the issue raised in this writ petition before the competent Court, where the reference under Section 18 of the Land Acquisition Act, 1894 praying for enhancement of compensation, is pending.

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N.V.RAMANA,J

Date: 27th July, 2004.

KSR/CS

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The Chief Secretary, State of A.P., Secretariat, Hyderabad.

2.The District Collector,Karimnagar.

3.The Land Acquisition Officer and Special Deputy Collector,

L.A.Unit, Singareni Collieries Co., Ltd., Godavarikhani,

Karimnagar District.

4.The Chairman and Managing Director, Singareni Collieries Company Limited, Red Hills, Hyderabad.

5. Two C.Cs. to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (O.U.T.)

6. Two C.D. copies.